

House File 2325 - Introduced

HOUSE FILE 2325
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 600)

A BILL FOR

1 An Act relating to certain corporations organized prior to
2 July 1, 1971, by eliminating requirements relating to
3 publication.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 491.19, Code 2014, is amended to read as
2 follows:

3 **491.19 Commencement of business.**

4 The corporation may commence business as soon as the
5 ~~certificate is issued by~~ articles of incorporation are filed
6 with the secretary of state, ~~and its acts shall be valid if the~~
7 ~~publication in a newspaper is made within three months from~~
8 ~~the date of such certificate; providing that when the notice~~
9 ~~is not published within the time herein prescribed, but is~~
10 ~~subsequently published for the required time, and proof of the~~
11 ~~publication thereof filed with the secretary of state, the acts~~
12 ~~of such corporation after such publication shall be valid.~~

13 Sec. 2. Section 491.20, unnumbered paragraph 1, Code 2014,
14 is amended to read as follows:

15 Amendments to articles of incorporation making changes in
16 any of the provisions of the articles may be made at any annual
17 meeting of the stockholders or special meeting called for that
18 purpose, and they shall be valid only when ~~recorded,~~ approved
19 ~~and published as the original articles are required to be,~~
20 ~~except where the amendment provides for changing the principal~~
21 ~~place of business from one county to another, in which event~~
22 ~~said amendment shall be published in both the counties of the~~
23 ~~former and new place of business~~ by the shareholders and filed
24 with the secretary of state. ~~Publication shall be by notice~~
25 ~~setting out the substance of the amendment and, in the case of~~
26 ~~amended and substituted articles, said notice shall contain the~~
27 ~~matters and things required to be published by section 491.17,~~
28 ~~relating to original incorporations.~~ If no increase is made in
29 the amount of capital stock, a certificate fee of one dollar
30 and a recording fee of fifty cents per page must be paid. Where
31 capital stock is increased the certificate fee shall be omitted
32 but there shall be paid a recording fee of fifty cents per page
33 and in addition a filing fee which in case of corporations
34 existing for a period of years shall be one dollar per thousand
35 of such increase and in case of corporations empowered to exist

1 perpetually shall be one dollar and ten cents per thousand of
2 such increase. Corporations providing for perpetual existence
3 by amendment to its articles shall, at the time of filing
4 such amendment, pay to the secretary of state a fee of one
5 hundred dollars together with a recording fee of fifty cents
6 per page, and, for all authorized capital stock in excess of
7 ten thousand dollars, an additional fee of one dollar ten cents
8 per thousand.

9 Sec. 3. Section 491.23, Code 2014, is amended to read as
10 follows:

11 **491.23 Dissolution — ~~notice~~ — filing a statement with**
12 **secretary of state.**

13 A corporation may be dissolved prior to the period fixed
14 in the articles of incorporation, by unanimous consent, or in
15 accordance with the provisions of its articles, and ~~notice~~
16 ~~thereof must be given in the same manner and for the same time~~
17 ~~as is required for its organization; provided, however, that~~
18 ~~the notice of such dissolution shall be deemed sufficient if a~~
19 statement swearing to the dissolution, signed by the officers
20 of such corporation and published as required by law, is filed
21 with the secretary of state. ~~Notice thereof shall also be~~
22 ~~given by the filing in the office of the secretary of state the~~
23 ~~proof of publication of notice of dissolution and said proof~~
24 ~~shall be recorded by the secretary of state in the same manner~~
25 ~~as the recording of amendments, and a~~ A recording fee of one
26 dollar shall apply thereto to the filing of the statement.

27 Sec. 4. REPEAL. Sections 491.17, 491.18, 491.32, and
28 491.109, Code 2014, are repealed.

29 EXPLANATION

30 The inclusion of this explanation does not constitute agreement with
31 the explanation's substance by the members of the general assembly.

32 BACKGROUND. Iowa's modern for-profit corporation law is
33 contained in Code chapter 490 (1989 Iowa Acts, chapter 288),
34 the "Iowa Business Corporation Act" (Code section 490.101).
35 All domestic for-profit corporations must be organized under

1 that chapter, unless an express exception is provided. One
2 exception involves a corporation organized under Code chapter
3 491 which governs corporations incorporated prior to July 1,
4 1971. That Code chapter expressly provides that all domestic
5 corporations are to be organized under Code chapter 490, unless
6 expressly allowed in that Code chapter. The transitional
7 provision in Code chapter 490 allows a corporation organized
8 under Code chapter 491 to remain governed under that Code
9 chapter, if organized on the mutual plan or operating as
10 a telephone company qualifying as a nonprofit corporation
11 pursuant to an internal revenue service letter ruling and if
12 it distributes profits in a manner similar to a cooperative
13 association under Code chapter 499. For example, certain
14 corporations formed for purposes of insurance may be governed
15 under Code chapter 490 (Code section 515.1).

16 CURRENT LAW — PUBLICATION REQUIREMENTS. A corporation
17 organized under Code chapter 491 is governed by its articles of
18 incorporation filed with the secretary of state who issues a
19 certificate of incorporation to the corporation (Code section
20 491.19). The corporation must publish a detailed notice of
21 the incorporation in a newspaper (Code sections 491.17 through
22 491.19). In addition, when the corporation amends its articles
23 of incorporation, the amendments are valid only when filed with
24 the secretary of state and published in a newspaper in the same
25 manner required for the original corporation (Code section
26 491.20). A corporation organized under the Code chapter may
27 also have a limited duration (Code section 491.24) but can
28 be renewed (Code section 491.25). Upon satisfying certain
29 conditions, the secretary of state issues the corporation a
30 certificate of renewal (Code section 491.28). The corporation
31 must publish a notice of renewal in the same manner as it
32 published the notice of incorporation (Code section 491.32).
33 Two or more corporations organized under Code chapter 491
34 may merge so that the surviving corporation absorbs another
35 corporation or alternatively, two corporations may consolidate

1 to form a new corporation (Code chapter 491, division II). The
2 merged or consolidated corporation must file articles of merger
3 or consolidation with the secretary of state (Code section
4 491.107). In that case, notice of the merger or consolidation
5 is again published in the same manner as the original articles
6 (Code section 491.109). A corporation organized under Code
7 chapter 491 that dissolves must publish a notice of the
8 dissolution and file a proof of publication with the secretary
9 of state (Code section 491.23).

10 BILL'S PROVISIONS. The bill provides that a corporation
11 organized under Code chapter 491 prior to July 1, 1971, and
12 which is allowed to continue its existence, may amend its
13 articles of incorporation, merge with another corporation, or
14 dissolve without having to publish a notice of its action in a
15 newspaper.